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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,281	09/12/2003	Michael Rivers JR.	42208.0400	7661
23416	7590	08/21/2006	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ, LLP			MORANO IV, SAMUEL J	
P O BOX 2207			ART UNIT	
WILMINGTON, DE 19899			PAPER NUMBER	
			3617	

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/661,281	Applicant(s) RIVERS ET AL.	
	Examiner Frantz F. Jules	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-15 and 18-25 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 9-15, 18 and 20-25 is/are rejected.
- 7) ☒ Claim(s) 8, 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7, 9-15, 18, 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald (US 6,776,459 B2) in view of Murnin (US 1,500,884). Fitzgerald discloses a wheel spinner assembly mountable to a first wheel face and second wheel face of a wheel of a vehicle, the assembly comprising a first spinner (11) rotatably mountable to said wheel in proximity to said first wheel face, said first spinner including a first spinner central bore through which at least one of a wheel extension shaft attached to a mounting cup is insertable during mounting to said wheel and said mounting cup receiving a wheel shaft, wherein said first spinner rotates around said at least one extension axle when said wheel rotates and wherein said first spinner substantially continues to rotate when said wheel ceases rotation, a second spinner (11) rotatably mountable to said wheel in proximity to said second wheel face as disclosed in col 1, lines 45-52, said second spinner including a second spinner central bore through which at least one extension axle shaft of a wheel mounting cup is insertable during mounting to said wheel and said mounting cup receiving a wheel shaft, wherein said second spinner rotates around at least one extension axle when said wheel rotates and

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wherein said second spinner substantially continues to rotate when said wheel ceases rotation, and a friction reducing means (12) in physical communication with said first spinner central bore, said friction reducing means configured to be fitted circumspect at least one of said wheel axle shaft and first side wheel hub, said friction reducing means supporting said first spinner.

A retaining means (10) is provided in physical communication with said friction reducing means in accordance with claim 2.

A spacer (13) including a bore is provided in communication with the friction reducing means and a first wheel hub (14) in accordance with claim 3.

Fitzgerald teaches all of the features as disclosed above but does not disclose a spinner assembly comprising a spinner attachment system in which an axle and a hub in addition to a bushing are insertable through the spinner. The general concept of providing a spinner attachment system in which an axle and a hub in addition to a bushing are insertable through the spinner in a spinner assembly is well known in the art as illustrated by Murnin which discloses the teaching of a spinner attachment system through which spinner an axle and a hub is insertable in addition to a bushing in a wheel spinner assembly. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fitzgerald to include the use of a spinner attachment system in which an axle and a hub in addition to a bushing are insertable through the spinner in his advantageous spinner assembly as taught by Murnin in order to prevent loosening of the spinner assembly when exposed to high wind loading thereby improving safety.

Allowable Subject Matter

3. Claims 8 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed 05/08/06 have been fully considered but they are not persuasive.

A. Summary of applicant's argument

In the amendment, applicant traversed the rejection of the claims for the following reasons:

1. The reference cited in the 103 rejection, Fitzgerald, fails to teach the limitations of "a central bore through which a wheel axle shaft or wheel hub is insertable or a friction reducing means coaxially positioned between the rotating device and at least one of the hub or the axle" as the examiner improperly equated Fitzgerald's mounting cup with applicant's hub or axle.
2. The references cited in the rejection, Murnin, cannot be properly combined to yield applicant's invention as the Murnin reference fails to meet the limitation that "a friction reducing means is coaxially positioned between the spinner and the hub or axle."
3. There is no teaching or motivation to combine the references.
4. Frenton spinner does not rotate indenpendtly of the wheel.

B. Response to applicant's argument

1. Regarding applicant's argument number 1, it should be noted that the combination rejection was meant to address the shortcoming of a spinner through which an axle and a hub is insertable therethrough in addition to a bushing. It is agreed that there was a typo in identifying the shaft member of Fitzgerald which is attached to a mounting cup in the previous correspondence. The rejection has been corrected to highlight the fact that Fitzgerald does not disclose a spinner through which an axle and a hub is insertable therethrough in addition to a bushing. However, it is well known in the art to have a spinner attachment system through which an axle and a hub in addition to a bushing is insertable therethrough as taught by Murning. One of ordinary skill in the art would have been motivated to substitute the spinner attachment system of Fitzgerald by that of Murnin in order to achieve a spinner through which an axle and a hub in addition to a bushing is insertable therethrough.

2. Regarding applicant's argument No.2, it is factual that Murnin meet the claim limitations of " a friction reducing means is coaxially positioned between the spinner and the hub or axle.

This friction reducing means has been identified as washer member 26 in the fig. 3 of the drawings. Also, the specification clearly identify the function of friction reduction of washer member 26 on page 1, lines 86-89.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

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references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, an ordinary skill in the art would have been motivated to substitute the spinner attachment system of Fitzgerald by that of Murnin in order to achieve among others the benefit of reducing manufacturing cost.

4. Applicant's argument number 4 is moot in light of the objection of claims 8 and 19.

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 272-6681. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

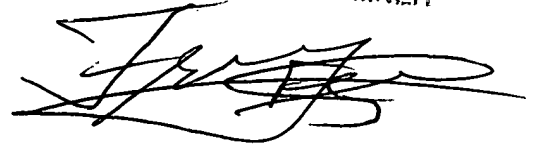
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules
Primary Examiner
Art Unit 3617

FFJ

July 10, 2006

FRANTZ F. JULES
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Frantz F. Jules', written over a horizontal line.